MT LEGISLATIVE HISTORY

Chapter 348 1973

Bill (H) 270 S_____ Original bill & hist. ___C

H. Committee on Judiciary			S. Committee on Judiciary		
Hearing Date(s)	Jan 24	✓C	Hearing Date(s)	Feb 29	✓C
	Jan 25	✓C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C		_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report_____

January 24, 1973

JUDICIARY COMMITTEE

The twelfth meeting of the House Judiciary Committee was called to order in Committee Room 436 of the Capitol Building at Helena, Montana on Wednesday, January 24, 1973 at 9:00 a.m. Representative John C. Hall, Chairman, presided. All members were present except Representative Yardley, absent, excused.

HOUSE BILL 201 Representative Tom Rolfe, Gallatin County, chief sponsor, summarized this bill pertinent to cancellation of motor vehicle insurance policies. Representative Rolfe introduced Mr. Everett Snortland with the Montana Farm Bureau. Mr. Snortland testified in support of bill, Mr. Clyde Jarvis with Montana Farmers Union testified in opposition to bill. Mr. Jarvis presented a prepared statement (see Exhibit A). Following questions from committee members the hearing was closed.

Representative Greely moved House Bill 201 DO NOT PASS. Representative Baeth seconded. Representative Baucus made substitute motion bill be amended on page 2, line 3 by striking the punctuation ".", and adding after the word "purchase" the new material "provided the said cancellation of insurance shall not be made prior to next due date". Motion seconded by Representative Bell. The motion failed with Representatives Lucas, Bell, Roberts, Brown and Baucus voting yes.

Representative Roberts made substitute motion the bill be amended on line 3, page 2, by striking the punctuation ".", and adding after the word "purchased" the new material, "where membership was precedent to issuance of policy.". Representative Bell seconded substitute motion. The motion failed with Representatives Bell, Roberts, Brown and Warfield voting yes.

Chairman Hall reverted to the original motion that House Bill 201 DO NOT PASS. Motion seconded and passed with Representatives Bell, Roberts and Lucas voting no.

HOUSE BILL 270 Representative Swanberg, Cascade County, chief sponsor of this bill expanding the sentencing power of justice and police courts, summarized and urged passage of bill. Mr. Jerome Loendorf representing the Montana Medical Association testified in support of bill but urged amendment to page 2, line 4 by inserting after the word "time" the new material "except jail time". Following discussion and questions from committee members the hearing was closed.

Representative Greely moved committee pass bill for this day. Motion seconded and bill passed for the day.

HOUSE BILL 277 Representative Towe, chief sponsor of bill, moved to defer hearing until later date as is not prepared. Chairman Hall stated, that without objection of committee, bill will be deferred until Friday, January 26, 1973.

NAME: Jerry Loveless DATE: 1-4-95

ADDRESS: 2222 Mae Helena, Mt. 59601

PHONE: 442-2552

REPRESENTING WHOM? Mt. Building Assn.

APPEARING ON WHICH PROPOSAL: HB 270

DO YOU: SUPPORT? / AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: [illegible] DATE: 1/24/73

ADDRESS: [illegible]

PHONE: [illegible]

REPRESENTING WHOM? [illegible]

APPEARING ON WHICH PROPOSAL: [illegible]

DO YOU? SUPPORT? X AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BILL 269 Representative Bell summarized this bill which he introduced. Captain John Heath of Montana Highway Patrol Bureau testified in opposition to bill and stated he hoped the committee would amend bill. Considerable discussion followed and then Chairman Hall closed hearing. Chairman Hall moved to consider bill at later date as Representative Bell had to be excused.

HOUSE BILL 270 Chairman Hall stated committee should consider this bill on which hearing was previously conducted. Representative Greely moved to amend page 2, section 1, line 4 after the word "time" by inserting the new material "except jail time" and AS AMENDED DO PASS. Representative Lucas seconded. Motion passed as amended unanimously.

HOUSE BILL 339 Chairman Hall stated committee would again take up this bill which was heard on Wednesday, January 24, 1973. Considerable discussion ensued. Chairman Hall recalled the fact of the amendments which were made in previous hearing. A motion that bill AS AMENDED DO PASS failed with Representatives Hall and Towe voting aye, the remaining committee members voted no. Representative Bell absent, excused for this portion of meeting. Representative Hall moved House Bill 339 be passed for day. Representative Yardley seconded. Passed unanimously.

Motion to adjourn made by Representative Lucas, seconded and committee adjourned at 10:15 a.m.

JCH:pb

JOHN C. HALL, CHAIRMAN

SENATE JUDICIARY COMMITTEE---February 27, 1973

The committee was called to order by Chairman McKeon; all members were present. Representative Robert Harper spoke. Others who spoke in support of the HB 446 were:
1) Tom Dowling, Montana County Attorney Association
2) Fred Bourdeaux (sp), Cascade Co. Attorney--Mr. Bourdeaux proposed some amendments, the main one being that all the counties would enforce this bill, not the majority.
3) Robert Deschamps, Missoula Co.
4) Harold Hansen, Mill County
5) Mr. Murphy, Stanford-Basin Co. Supported this only with amendments

Those opposed were:
1) Russell Conklin, Meagher Co. Attorney
2) Dean Zennicker, Montana Association of Co. Commissioners

HB 477 was also discussed. Rep. Harper, Silver Bow County spoke and introduced:
1) Tom Dowling, Montana Co. Attorney Assoc.--support
2) Robert Deschamps, Missoula County--support
3) Harold Hansen--Mill County

HB 403 was also discussed. Rep. Greely, sponsor, spoke. He introduced:
1) Larry Huss, Attorney General's Office
2) Tom Dowling also spoke in support of the bill.

HB 270 was discussed also; Rep. Swanberg from Great Falls sponsored the bill and spoke for it and also introduced:
1) Jerry Loendorf, Montana Medical Association

HB 277 sponsored by Tom Towe who spoke, was discussed next. Dan Russell, Dept. of Institutions and program supervisor of division of after care spoke in support of the bill.

Next Rep. John Hall spoke on HB 266. Also speaking was John Phillipsborn who is a parole Officer at the Board of Pardons.

Action was taken on the following:

SB 403 Senator Harrison proposed the following amendments; Senator Turnage seconded the motion and the committee adopted the following amendments:
I move to amend the title, page 1,line 6 of the blue bill by striking "LAW ENFORCEMENT AND PUBLIC SAFETY" and inserting in lieu thereof "JUSTICE"

And also amend the title, line 11 of the blue bill by inserting the following punctuation and words "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." after the word "COORDINATOR"

And further amend Section 1, page 1, line 16 by striking the words "law enforcement and public safety" and inserting the word "Justice"

And further amend by adding a new Section 4 to read: "This act shall become effective upon its passage and approval."

HB 277 Senator Turnage moved this bill be concurred in; Senator Harrison seconded the motion; and the committee voted this bill BE CONCURRED IN.

HB 226 Senator Gilfeather moved this bill be concurred; Senator Turnage seconded the motion; and the committee voted this bill be CONCURRED IN.

HB 270 Senator Turnage proposed the following amendments; Senator Mathers seconded the motion and the committee adopted them.

I move to amend Section 1, page 2, lines 3, 4, and 5 by striking "However, if any restrictions or conditions are violated, any elapsed time EXCEPT JAIL TIME shall not be a credit against the sentence, unless the court shall otherwise order."

And further amend Section 1, page 2, line 6 by inserting the word "reasonable" after the word "any" and before the word "conditions"

Senator Turnage moved this bill be concurred in; Senator Boylan seconded the motion; and the committee voted this bill BE CONCURRED IN.

HB 446 Senator Turnage moved this bill be not concurred in; Senator Moore seconded the motion; and the committee voted this bill BE NOT CONCURRED IN.

HB 461 Senator Turnage moved this bill be held over; Senator Zody seconded the motion; and the committee voted that this bill BE HELD OVER.

The meeting adjourned; the next meeting was scheduled for February 28, 1973.

Luke McKeon, Chairman

JUDICIARY

Senate Committee

Date 2/27 House Bill No. 270 Time

	Y	N
McKeon		
Gilfeather		
Boylan		
Hall		
Zody		
Drake Walker		
Harrison		
Moore		
Turnage		

Mary Jane Rice, Secretary

Senator Jake McKeon
Chairman

Motion: To Amend and Do Pass as Amended

(2) have the power to require such reports from the county superintendents, budget boards, county treasurers, and trustees as it may deem necessary; and

(3) in the months of December and April of each school fiscal year, order the superintendent of public instruction to distribute the state equalization aid on the basis of each district's annual entitlement to such aid as established by the superintendent of public instruction. In ordering the distribution of state equalization aid, the board of education shall not increase or decrease the state equalization aid distribution to any district on account of any difference which may occur during the school fiscal year between budgeted and actual receipts from any other source of school revenue.

Should a district receive more state equalization aid than it is entitled to, the county treasurer must return the overpayment to the state upon the request of the superintendent of public instruction in the manner prescribed by the municipal division of the department of intergovernmental relations."

Approved: March 17, 1973.

CHAPTER NO. 347

An Act to Permit Consolidation of Police Departments and Sheriffs' Offices Within a County and Providing for Salaries of the Employees of the Consolidated Offices Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. On agreement of the legislative body of a city or town with the county commissioners of the county in which it is located, there may be established, in counties other than first and second class counties, in lieu of a police department and a sheriff's office, a department of public safety. The department shall be under the supervision of a commission selected jointly by the county commissioners and the city or town, legislative bodies consisting of not more than seven (7) members.

Section 2. The director of the department shall be the sheriff who may be elected, or may be appointed by the commission, in the event of municipal county government.

Section 3. Officers and patrolmen of the city or town police department and deputies of the county sheriff's office shall be subordinate to the director and shall have the power and perform the duties conferred on and required of police officers and patrol-

men in cities and towns and of sheriff's deputies in counties, as required by state law and municipal ordinance. The director shall have the powers and perform the duties conferred on and required of sheriffs and police officers.

Section 4. The provisions of section 25-605, R.C.M. 1947 notwithstanding, the salaries of the director and employees of the department of public law enforcement shall be established by the commission and shall be paid by the city or town with the county commissioners of the county. Said salaries in any event shall not be less than that specified in section 25-605, R.C.M. 1947.

Section 5. For the purpose of serving and making return on all criminal and civil process, executing judgments, decrees and orders of court and making sales thereunder and returns thereof, the director shall be known and designated as "sheriff of the city and county of .....," and each police officer, patrolman and deputy sheriff shall be known and designated as deputy sheriff.

Section 6. The provisions of this act are severable, and if any part or provision thereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Approved: March 17, 1973.

CHAPTER NO. 348

An Act to Amend Section 95-2007, R.C.M. 1947, by Expanding the Sentencing Power of Justice and Police Courts.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 95-2007, R.C.M. 1947, is amended to read as follows:

"95-2007. **Sentence and judgment.** (a) If a judgment of acquittal is rendered the defendant must be immediately discharged.

(b) After a plea or verdict of guilty, or after a judgment against the defendant, the court must designate a time for sentencing, which must be within a reasonable time after the verdict or judgment is rendered. The sentence must be entered in the minutes of the court as soon as it is imposed.

(c) If the defendant pleads guilty, or is convicted either by the court or by a jury, the court must impose a sentence of fine or imprisonment or both, as the case may be. *The court may*

suspend the execution of the sentence up to the maximum sentence allowed for the particular offense. The court may impose any reasonable conditions or restrictions on the sentence which it deems necessary. If alcohol or other drugs are involved the court may impose such rehabilitative measures as it deems advisable under the circumstances.

(d) The determination and imposition of sentence shall be the exclusive duty of the court."

Approved: March 17, 1973.

CHAPTER NO. 349

An Act to Add the Definition of District to Section 11-3803 and to Amend Section 11-3810 (2), R.C.M. 1947, to Require Membership of District Board Members on Each County Planning Board, and Providing Residency Requirements for a City-County Planning Board.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 11-3803, R.C.M. 1947, is amended to read as follows:

"11-3803. **Definitions.** As used in this act:

1. "City" includes incorporated cities and towns.

2. "City council" means the chief legislative body of a city or incorporated town.

3. "Planning board" means a city planning board or a joint city-county planning board.

4. "Master plan" means a comprehensive development plan or any of its parts such as a plan of land use and zoning, of thoroughfares, or sanitation, of recreation, and other related matters. The plan may propose ordinances or resolutions for possible adoption by the appropriate governing body.

5. "Public place" means any tract owned by the state or its subdivisions.

6. "Mayor" means mayor of a city.

7. "Streets" includes streets, avenues, boulevards, roads, lanes, alleys, and all public ways.

8. "Units of government" means any federal, state, regional, county, city or town.

9. "Utility" means any facility used in rendering service which the public has a right to demand.

10. "Person" means individual firm, or corporation.

11. "Governing body or governing bodies" means the governing body of any governmental unit represented on a planning board.

12. "Plat" means a subdivision of land into lots, streets and areas, marked upon the earth and represented on paper; and includes re-plats or amended plats.

Section 2. Section 11-3810, R.C.M. 1947, is amended to read as follows:

"11-3810. **County planning boards and city-county planning boards—members—term of officer members and citizen members.** 1. A city-county planning board shall consist of not less than nine (9) members to be appointed as follows:

a. Two (2) official members *who reside outside the city limits* to be appointed by the board of county commissioners who may in the discretion of the board of county commissioners be employed by or hold public office in the county.

b. Two (2) official members to be appointed by the city council who may in the discretion of the city council be employed by or hold public office in the city.

c. Two (2) citizen members to be appointed by the mayor of the city.

d. Two (2) citizen members to be appointed by the board of county commissioners. The two (2) members *shall* reside outside the city limits but within the jurisdictional area of the planning board.

e. The ninth member shall be selected by the eight (8) officers and citizen members hereinabove provided for with the consent and approval of the board of county commissioners and the city council.

2. County planning boards shall consist of not less than five (5) members appointed by the board of county commissioners. *At least one (1) member of any county planning board existing at or formed after July 1, 1973, shall be a member of the governing board of a conservation district as provided for in section 76-105 or a state cooperative grazing district, if officers of either reside in said county.*

In the event that any city or town subsequently becomes